

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: March 15, 2006

Division: Growth Management

Bulk Item: Yes ☐ No ☒

Department: Planning

Staff Contact Person: Jose Papa

AGENDA ITEM WORDING:

Public hearing to consider adopting an Ordinance amending the Monroe County Land Development Regulations to implement Goal 105 of the 2010 Comprehensive Plan by renumbering existing Section 9.5-256 to 9.5-271; creating a new Section 9.5-256, Tier Overlay District; providing criteria for designation of tier boundaries; and, providing a mechanism for Tier Overlay District Map amendments.

[2nd of 2 required public hearings]

ITEM BACKGROUND: On January 21, 2004 and in Ordinance # 018-2004 the BOCC directed staff to prepare draft text and map amendments and other supporting studies in order to effectuate the provisions of Goal 105 of the 2010 Comprehensive Plan and Rule 28-20.100 F.A.C. Several stakeholder forums and two community workshops were held and the Planning Commission reviewed the staff draft at four public hearings, amended the draft and recommend approval. The draft ordinance has been revised by staff to reflect the direction given the staff by the Board at the May and June public hearing.

Other changes since the June meeting are from comments received from the Department of Community Affairs

PREVIOUS RELEVANT BOCC ACTION:

Ordinance No. 018-2004 adopted June 16, 2004 directed staff to prepare text and map amendments to implement Goal 105. Goal 105 was adopted in Ordinance No. 20- 2002.

CONTRACT/AGREEMENT CHANGES: None.

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes N/A No ☐

COST TO COUNTY: N/A

SOURCE OF FUNDS: N/A

REVENUE PRODUCING: Yes N/A No ☐ **AMOUNT PER MONTH** N/A **Year** ☐

APPROVED BY: County Atty X OMB/Purchasing ☐ Risk Management ☐

DIVISION DIRECTOR APPROVAL:


Ronda Norman

DOCUMENTATION: Included X

Not Required ☐

DISPOSITION: _____

AGENDA ITEM # _____

ORDINANCE NO. -2006

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING THE AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO IMPLEMENT GOAL 105 OF THE 2010 COMPREHENSIVE PLAN AND THE TIER OVERLAY SYSTEM BY AMENDING SECTION 9.5-256, TIER OVERLAY DISTRICT; PROVIDING CRITERIA FOR DESIGNATION OF TIER BOUNDARIES; PROVIDING A MECHANISM FOR TIER OVERLAY DISTRICT MAP AMENDMENTS; PROVIDING FOR REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES; DIRECTING THE PLANNING AND ENVIRONMENTAL RESOURCES DEPARTMENT TO TRANSMIT A COPY OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Monroe County Board of County Commissioners, during public hearings held in December 2004, January, February, March, April, May and June, 2005, and March 2006, reviewed and considered a proposed amendment to provide criteria and procedures for enacting a Tier Overlay District Map designation on the Monroe County Land Use District Map to implement Goal 105 of the 2010 Comprehensive Plan, Rule 28-20.100 F.A.C. and the Tier Overlay system; and

WHEREAS, the Monroe County Board of County Commissioners directed staff to prepare text and map amendments in Ordinance No. 018-2004 adopted June 16, 2004, to include criteria for delineation of Tier boundaries in accordance with Goal 105;

WHEREAS, the Monroe County Board of County Commissioners makes the following Findings of Fact:

1. Goal 105 provides a framework for future development and land acquisition for the next 20 years that considers the carrying capacity of the Florida Keys, reduces sprawl and promotes sustainability.
2. The specific Tier Map designation criteria and Tier Overlay District were developed following the general criteria in Goal 105, identifying areas appropriate for additional development and those which are important environmentally and should be preserved.
3. The Planning Commission, after hearing public comments and staff input at four public hearings on the draft criteria, recommended approval on November 3, 2004, to the Board of County Commissioners of the proposed amendments to the Land Development Regulations.

4. The Board of County Commissioners during the series of public hearings held in the first part of 2005, directed staff to make revisions to the boundary criteria for delineation of Tiers and by changing all Tier II designations outside of Big Pine Key and No Name Key to a Tier III designation.

5. The Board of County Commissioners approved in concept revisions to the habitat protection elements of the proposed amendments to the Comprehensive Plan on August 17, 2005, in response to concerns raised by the Governor and Cabinet and negotiations with DCA staff regarding the need for further habitat protection in formerly Tier II designated areas.

6. The Board of County Commissioners adopted amendments to the Comprehensive Plan on September 22, 2005, that made further revisions to the Tier system by instituting a Tier III-A (Special Protection Area) for improved habitat protection in Tier III.

7. The Growth Management Division staff prepared specific criteria for the delineation of the Tier III-A (Special Protection Area).

8. Tier I includes all contiguous hammock areas above four acres and restoration areas between fragmented smaller hammock patches to increase the hammock size and buffers where possible.

9. Hammock size is a major determinate of habitat quality according to FKCCS, which is why size and connectivity were used to identify the best and most important terrestrial habitat areas for preservation.

10. Tier III is appropriate for additional infill development because of the location and amount of existing development in the areas designated and the absence of significant upland native habitat patches.

11. Tier III-A, referred to as "Special Protection Area" in the Comprehensive Plan, includes isolated upland native habitat patches of one acre or more in area that require increased protection from development.

12. The Tier Overlay District regulations, established for Big Pine Key and No Name Key by Ordinance 29-2005, created a new Section 9.5-256, Monroe County Code that establishes a mechanism for implementation of the Tier System by overlaying the Land Use District Map and amending the boundaries of the Tier System.

13. The Board of County Commissioners has reviewed the proposed amendments to Section 9.5-256 to incorporate specific criteria for designation of Tier I, III, and III-A (Special Protection Areas) boundaries.

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NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:

Section 1: The boundary criteria for Tier I, II, III, and III-A (Special Protection Area) are consistent with and further the goals, objectives and policies of the Year 2010 Comprehensive Plan, particularly Goal 105 and its associated objectives and policies;

Section 2: Section 9.5-256, Monroe County Code, is hereby amended that reads as follows:

“Sec. 9.5-256. Tier overlay district.

(a) *Purpose:* The purpose of this Tier Overlay District is to designate geographical areas outside of mainland Monroe County, excluding the Ocean Reef planned development, into tiers to assign ROGO and NROGO points, determine the amount of clearing of upland native vegetation that may be permitted, and prioritize lands for public acquisition. The Tier boundaries are to be depicted on the Tier Overlay District Map. Lands on Big Pine Key and No Name Key shall be delineated as Tier I, II, or III. Lands in the remainder of unincorporated Monroe County, excluding the Ocean Reef planned development, shall be delineated as Tier I, III, and III-A (Special Protection Area).

(b) *Tier boundaries:* Tier boundaries shall follow property lines wherever possible, except where a parcel line or distinct geographical feature, such as a canal or roadway, may be more appropriate.

(c) *Tier boundary criteria, excluding Big Pine Key and No Name Key:* The Tier boundaries are designated using aerial photography, data from the Florida Keys Carrying Capacity Study, the endangered species maps, property and permitting information and field evaluation. The following criteria at a minimum are used to evaluate upland habitats and designate boundaries between different Tier Overlays:

- (1) Tier I boundaries shall be delineated to include one or more of the following criteria and shall be designated Tier I:
 - a. Natural areas including old growth as depicted on the 1985 Existing Condition Map and new growth of upland native vegetated areas identified by up-to-date aerials and site surveys, above four (4) acres in area.
 - b. Vacant lands, which can be restored to connect upland native habitat patches and reduce further fragmentation of upland native habitat.
 - c. Lands required to provide an undeveloped buffer, up to five-hundred (500) feet in depth, if indicated as appropriate by special species studies, between natural areas and development to reduce secondary impacts. Canals or roadways, depending on width may

form a boundary that removes the need for the buffer or reduces its depth.

- d. Lands designated for acquisition by public agencies for conservation and natural resource protection.
 - e. Known locations of threatened and endangered species as defined in section 9.5-4, identified on the Threatened and Endangered Plant and Animal Maps or the Florida Keys Carrying Capacity Study maps, or identified in on-site surveys.
 - f. Conservation, Native Area, Sparsely Settled, and Off-Shore Island Land Use districts.
 - g. Areas with minimal existing development and infrastructure.
- (2) Lands located outside of Big Pine Key and No Name Key that are not designated Tier I shall be designated Tier III.
- (3) Designated Tier III lands located outside of Big Pine Key and No Name Key with tropical hardwood hammock or pinelands of greater than one acre in area shall be designated as Special Protection Areas.
- a. The following conditions shall constitute a break in pinelands or tropical hardwood hammock for calculating the one-acre minimum patch size for designation of Tier III-A boundaries:
 - 1. U.S. Highway 1, canals and open water
 - 2. Any disturbed pinelands or tropical hardwood hammock with invasive coverage of forty (40) percent or more;
 - 3. Property lines of developed lots or vacant lots with a ROGO allocation award or an issued building permit, as of September 28, 2005, located within a Land Use District that allows only one unit per lot; or
 - 4. Property lines of developed parcels of less than 10,000 square feet in area with a ROGO/NROGO allocation award or issued building permit, as of September 28, 2005, located within a Land Use District that allows residential development of more than one dwelling unit per parcel/lot or non-residential development.
 - b. Lots designated Tier III-A (Special Protection Areas) on the 11/29/05 maps may petition the county for a rezoning to Tier III if the lot meets one of the following criteria:
 - 1. The lot will be served by a central sewer and the wastewater collection system has an approved permit that was effective 3/21/06 to construct the system on

file from the Department of Environmental Protection;
or

2. The lot is located within a one acre patch of hammock that is divided from the other lots that make up the one acre or more patch by a paved road that is at least 16 feet wide.

Such lots may be granted a score of 30 points through an administrative determination made by the County Biologist, the Director of Growth Management and rendered to the Department of Community Affairs until such time as the County sponsors a zoning map change to update the Tier Three Overlay Zoning Map and it is approved by the Department of Community Affairs.

- c. Any hammock identified in the County's data base and aerial surveys as 1.00 to 1.09 acres in area shall be verified by survey prior to its designation as Tier III-A. A hammock that is deemed by survey and a field review by County Biologists to fail the minimum size criteria shall have the Special Protection Area designation removed from the subject parcel.

(c) *Big Pine Key and No Name Key Tier Boundary Criteria:* The Tier boundaries shall be designated using the Big Pine Key and No Name Key Habitat Conservation Plan (2005) and adopted Community Master Plan for Big Pine Key and No Name Key.

(d) *Tier overlay district map amendments:* The Tier Overlay District Map may be amended to reflect existing conditions in an area if warranted, because of drafting or data errors or regrowth of hammock. However, the clearing of tropical hardwood hammock or pinelands that results in the reduction of the area of an upland native habitat patch to less than the one-acre minimum shall not constitute sufficient grounds for amending the designation of a Tier III-A area to Tier III. The Tier Overlay District Map amendments shall be made pursuant to the procedures for map amendments to this chapter. Unlawful conditions shall not be recognized when determining existing conditions and regulatory requirements.

(e) *Request for Tier I designation:* Notwithstanding the provisions of Section-9.5-511(d)2, any individual may submit an application to the planning department containing substantial and competent documentation that an area meets the Tier I criteria. Applications must be received by July 1 of each year on a form approved by the director of planning for consideration by the special master at a public hearing advertised at least fifteen (15) days prior to the hearing date. Said hearing by the special master shall be held prior to November 1 of each year. The director of planning will review the documentation and any other appropriate scientific information and prepare an analysis report for the special master. The special master will render a written opinion to the planning commission and board of county commissioners either that the application meets the criteria for designating the lands as Tier I or that the documentation is

insufficient to warrant a map amendment. The posting, advertising and review will follow the procedures in sec. 9.5-511(d)(3)(4) and (5).”

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

Section 5. This ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of this ordinance; does not waive any fee or penalty due or unpaid on the effective date of this ordinance; and does not affect the validity of any bond or cash deposit posted, filed, or deposited pursuant to the requirements of any ordinance.

Section 6. This ordinance shall be filed in the Office of the Secretary of State of Florida. This ordinance shall not become effective until July 14, 2006, but not prior to or without a notice issued by the Department of Community Affairs or Administration Commission approving the ordinance.

Section 8. This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes.

Section 9. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately numbered to conform to the uniform numbering system of the Code.

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PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida,
at a regular meeting of said Board held on the _____ day of _____, A.D., 2006.

Mayor Charles "Sonny" McCoy	_____
Mayor Pro Tem Murray Nelson	_____
Commissioner George Neugent	_____
Commissioner David Rice	_____
Commissioner Dixie Spehar	_____

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA

BY: _____
Mayor/Chairperson

(SEAL)

ATTEST: DANNY KOHLAGE, CLERK

BY: _____
Deputy Clerk

